

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD¹
REGION 32

ASR INTERNATIONAL CORPORATION
Employer

and

Case 32-RC-5392

INTERNATIONAL BROTHERHOOD OF TEAMSTERS,
LOCAL UNION 315, CHANGE TO WIN COALITION
Petitioner

SUPPLEMENTAL DECISION AND CERTIFICATION OF REPRESENTATIVE

Acting pursuant to Section 102.69 of the Board's Rules and Regulations, Series 8, as amended, the undersigned has caused an investigation of the Employer's objection to the election to be conducted and hereby overrules the Employer's objection, and further, as the Petitioner has received a majority of valid votes cast in the election, issues a Certification of Representative.

The Election

The Petition in this matter was filed on October 38, 2005.² Pursuant to a Decision and Direction of Election issued on November 28, an election by secret ballot was conducted on December 28, in the following unit:

All full-time and regular part-time Quality Clerk I and Quality Clerk II employees employed by the Employer at its Richmond, California facility; excluding all other employees, guards, and supervisors as defined in the Act.

The Tally of Ballots served on the parties at the conclusion of the election showed the following results:

Approximate number of eligible voters.....8
Number of void ballots.....0

¹ Herein called the Board.

² All dates hereinafter refer to calendar year 2005.

Number of votes cast for participating labor organization.....	7
Number of votes cast against participating labor organization.....	1
Number of valid votes counted.....	8
Number of challenged ballots.....	0
Valid votes counted plus challenged ballots.....	8

Challenged ballots were insufficient to affect the results of either election. Thereafter, the Employer filed a timely objection to the election, a copy of which was served on the Petitioner by the Region.

The Objection

The basis for this objection is that the Observer designated by the International Brotherhood of Teamsters, Local 315, Change to Win Coalition (“the Association”), Frank Thurman, is a supervisor within the meaning of Section 2(11) of the Act.

The investigation disclosed that after a hearing on November 9, I issued my Decision and Direction of Election, wherein I found that Quality Clerk II employees, and Frank Thurman in particular, are not statutory supervisors. On December 9, the Employer filed a Request for Review of my Decision and Stay of Election arguing, among other things, that Quality Clerk II employees are supervisors who should be excluded from the unit. On December 27, the Board denied the Employer’s Request for Review of my Decision and Stay of the Election. Through this objection the Employer merely restates the arguments it previously provided at the hearing and in its Request for Review. All issues raised by the Employer were or could have been litigated in the prior representation proceedings. The Employer does not offer to adduce at a hearing any newly discovered and previously unavailable evidence, nor does it allege any special circumstances that would require the Board to reexamine the decision made previously. Having found that Thurman is not a supervisor, but rather an employee eligible to vote in the election, his having served as the Petitioner’s observer is not a ground for setting aside the election.³ Accordingly, the Employer’s objection to the election is hereby overruled.

³ Aside from its contention that Thurman is a supervisor, the Employer does not contend that he otherwise engaged in any objectionable behavior while acting as the Petitioner’s observer.

CERTIFICATION OF REPRESENTATIVE

Pursuant to the authority vested in the undersigned by the National Labor Relations Board,

IT IS HEREBY CERTIFIED that a majority of valid votes cast in the election have been cast for International Brotherhood of Teamsters, Local 315, Change to Win Coalition, and that it is the exclusive collective bargaining representative for the employees in the bargaining unit set forth below:

All full-time and regular part-time Quality Clerk I and Quality Clerk II employees employed by the Employer at its Richmond, California facility; excluding all other employees, guards, and supervisors as defined in the Act.

Dated at Oakland, California, this 13th day of January, 2006.⁴

/s/ Alan B. Reichard

Alan B. Reichard Regional Director
National Labor Relations Board
Region 32
1301 Clay Street, Suite 300N
Oakland, California 94612-5211

⁴ Under the provisions of Section 102.69 of the Board's Rules and Regulations, a request for review of this Supplemental Decision may be filed with the National Labor Relations Board, 1099 14th Street, NW, Washington, DC, 20570-0001. Pursuant to Section 102.69(g), affidavits and other documents which a party has submitted timely to the Regional Director in support of objections are not part of the record unless included in the Report or appended to the request for review or opposition thereto which a party submits to the Board. The request for review must be received by the Board in Washington, DC by January 27, 2006.